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**OFFICE OF PETITIONS**

In re Application of :  
Miller et al. : DECISION ON APPLICATION  
Application No. 10/600,132 : FOR  
Filed: June 19, 2003 : PATENT TERM ADJUSTMENT  
Atty Docket No. 24852-501 CIP :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed January 22, 2008. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from five hundred thirteen (513) days to six hundred fifteen (615) days.

The application for patent term adjustment is GRANTED-IN-PART to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **six hundred seven (607) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 12, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is five hundred thirteen (513) days. On January 22, 2008, applicants timely submitted the instant application for patent term adjustment<sup>1</sup>.

<sup>1</sup> The Office records show applicants paid the issue fee on March 5, 2008.

Applicants dispute the reduction of one hundred two (102) days for filing of the "SUPPLEMENTAL AMENDMENT" on October 26, 2007, after a reply had been filed. See 37 C.F.R. § 1.704(c)(8)<sup>2</sup>.

Applicants contend that they submitted the "SUPPLEMENTAL AMENDMENT" at the request of the examiner.

Applicants' contention is well taken. The record supports a conclusion that the supplemental reply filed October 26, 2007, was expressly requested by the examiner within the meaning of 37 CFR 1.704(c)(8). Accordingly, the reduction of 102 days is not warranted and is being removed.

However, the record reveals that applicants filed a "PETITION FOR CORRECTION OF INVENTORSHIP IN NON-PROVISIONAL PATENT APPLICATION" under 37 CFR 1.48(a) on December 19, 2006, after filing of a reply to the non-final Office action on December 11, 2006. As the submission of the petition was not expressly requested by the examiner, it is a proper basis for reduction of patent term. In accordance 37 C.F.R. § 1.704(c)(8), the period of adjustment of the term of the patent should have been reduced by eight (8) days, the number of days beginning on the day after the date the initial reply was filed, December 12, 2006, and ending on the date that the petition was filed, December 19, 2006.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is **six hundred seven (607) days** (678 days of Office delay - 71 days of applicant delay = 607 days).

Submission of the \$200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. No additional fee is required.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management

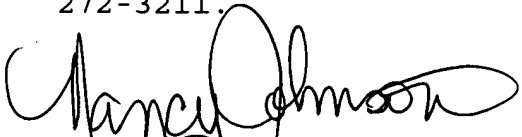
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<sup>2</sup> 37 CFR § 1.704(c)(8) states:

Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed[.]

for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries regarding this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

A handwritten signature in black ink, appearing to read "Nancy Johnson", with a large, stylized loop at the end.

Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of updated PAIR screen

## PTA Calculations for Application: 10/600132

Application Filing Date:	06/19/2003	PTO Delay (PTO):	678
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	165
Post-Issue Petitions:	0	Total PTA (days):	607
PTO Delay Adjustment:	94		

## File Contents History

Number	Date	Contents Description	PTO	APPL	START
87	07/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		8	
86	07/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	102		
70	12/12/2007	MAIL NOTICE OF ALLOWANCE	26		54
69	12/12/2007	MAIL EXAMINER'S AMENDMENT			
68	12/10/2007	ISSUE REVISION COMPLETED			
67	12/10/2007	DOCUMENT VERIFICATION			
66	12/10/2007	EXAMINER'S AMENDMENT COMMUNICATION			
65	12/10/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
64	12/10/2007	CASE DOCKETED TO EXAMINER IN GAU			
63	12/10/2007	NOTICE OF ALLOWABILITY			
62	11/01/2007	DATE FORWARDED TO EXAMINER			
61	10/26/2007	SUPPLEMENTAL RESPONSE		102	54
60	04/18/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
59	05/23/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
58	07/19/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
57	07/19/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	07/16/2007	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
55	07/30/2007	DATE FORWARDED TO EXAMINER			
54	07/16/2007	RESPONSE AFTER NON-FINAL ACTION		32	44
53	07/16/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
52	07/19/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

51	05/23/2007	REFERENCE CAPTURE ON IDS			
50	05/23/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	05/23/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	07/25/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	07/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	04/18/2007	REFERENCE CAPTURE ON IDS			
45.7	04/18/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	04/18/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	03/14/2007	MAIL NON-FINAL REJECTION			
43	03/05/2007	NON-FINAL REJECTION			
42	12/19/2006	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
41	12/29/2006	DATE FORWARDED TO EXAMINER			
40	12/11/2006	RESPONSE AFTER NON-FINAL ACTION			
39	09/12/2006	MAIL NON-FINAL REJECTION			
38	09/05/2006	NON-FINAL REJECTION			
36	04/06/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	03/14/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	10/05/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	07/25/2006	REFERENCE CAPTURE ON IDS			
31	07/13/2006	DATE FORWARDED TO EXAMINER			
30	06/29/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
29	06/02/2006	MAIL RESTRICTION REQUIREMENT	652		-1
28	05/30/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
27	03/13/2006	CASE DOCKETED TO EXAMINER IN GAU			
26	10/05/2005	REFERENCE CAPTURE ON IDS			
25.7	10/05/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	10/05/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	09/02/2005	CASE DOCKETED TO EXAMINER IN GAU			

23	07/13/2005	CASE DOCKETED TO EXAMINER IN GAU			
22	03/14/2005	REFERENCE CAPTURE ON IDS			
21.7	03/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	03/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	12/01/2004	CASE DOCKETED TO EXAMINER IN GAU			
19	07/23/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	07/23/2004	CASE DOCKETED TO EXAMINER IN GAU			
17	04/06/2004	REFERENCE CAPTURE ON IDS			
16.7	04/06/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	04/06/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	12/22/2003	PRELIMINARY AMENDMENT			
14	03/12/2004	APPLICATION RETURN FROM OIPE			
13	03/12/2004	APPLICATION RETURN TO OIPE			
12	03/12/2004	APPLICATION DISPATCHED FROM OIPE			
11	03/12/2004	APPLICATION IS NOW COMPLETE			
10	02/27/2004	ADDITIONAL APPLICATION FILING FEES		31	7
9	02/27/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
8	02/27/2004	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
7	10/27/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	08/12/2003	CASE CLASSIFIED BY OIPE			
3	08/12/2003	CLEARED BY OIPE CSR			
2	07/15/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/19/2003	INITIAL EXAM TEAM NN			

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#### EXPLANATION OF PTA CALCULATION

#### EXPLANATION OF PTE CALCULATION

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